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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------|------------------|
| 09/595,201 | 06/16/2000 | Dennis Richard Hayward | MAR0003US | 1202 |
| 26753 | 7590 | 07/02/2009 | EXAMINER | |
| ANDRUS, SCEALES, STARKE & SAWALL, LLP 100 EAST WISCONSIN AVENUE, SUITE 1100 MILWAUKEE, WI 53202 | | | RODRIGUEZ, PAMELA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3657 | |
| | | | NOTIFICATION DATE | DELIVERY MODE |
| | | | 07/02/2009 | ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usstopatentmail@cantorcolburn.com

| | | | |
|------------------------------|---------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/595,201 | HAYWARD ET AL. | |
| | Examiner Pam Rodriguez | Art Unit 3657 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 November 2008.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-15 and 20 is/are allowed.
- 6) Claim(s) 16-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

1. The Amendment filed November 3, 2008 has been received and considered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 16, 18, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,119,825 to Nisley.

Regarding Claim 16, Nisley discloses a brake assembly 12 for a motor 10 (see Figures 1 and 4) having all the features of the instant invention including: a plurality of brake elements 34,46, an electromagnetic actuator 24 arranged to permit control of a compressive load applied to the brake elements 34,46, wherein the actuator includes a actuator winding 24 located such that the brake elements 34,46 are accessible and removable without requiring removal of the winding from the motor 10 (see column 4 lines 21-27 and note loosening of bolts 26 would provide accessibility and removability of the brake elements without removal of the winding structure, see also Figure 1 and the examiner's remarks to this effect in the Response to Arguments Section below).

Regarding Claim 18, Nisley discloses that the brake elements 34, 46 form part of a module 12 which can be removed from the motor 10 and the remainder of the brake assembly as a unit (again via the loosening of bolts 26).

Regarding Claim 19, Nisley discloses that the module 12 includes an armature 40 forming part of the actuator 24 (see column 4 lines 36-38).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,119,825 to Nisley.

Regarding Claim 17, Nisley discloses most all the features of the instant invention as outlined above except for the winding being located between the brake elements and the motor.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have located the winding of Nisley between the brake elements and motor as an alternate location for the windings dependent upon the overall size constraints of the brake assembly and the motor.

Allowable Subject Matter

7. Claims 1-15 and 20 are allowed.

Response to Arguments

8. Applicant's arguments, see the response, filed November 3, 2008, with respect to Claims 1-11 and 13-15 have been fully considered and are persuasive. The 103(a) rejections of Claims 1-11 and 13-15 have been withdrawn.

9. Applicant's arguments filed November 3, 2008 regarding Claims 16-19 have been fully considered but they are not persuasive.

Applicant's main point of contention with the examiner's rejection of Claims 16-19 is that Nisley does not show or suggest structure that allows the brake elements to be accessible and removable without requiring removal of the actuator winding. In particular, applicant contends that Nisley requires removal of winding 24 and housing 20 before removal of brake elements 46, 34, and 40 may occur.

In response to this, using applicant's scenario described on the last two lines of page 8 of his remarks and lines 1-7 of page 9 of his remarks, brake elements 46, 34, and 40 are at least capable of being removed from the assembly without removal of the actuator winding. As applicant assesses in his scenario, if nut 32 is removed and bolt 26 is pulled to the left in Figure 3 of Nisley through housing 20, the brake elements 46, 34, and 40 would merely be left dangling about the motor shaft. So, in theory, these brake elements could be pulled from the motor shaft (i.e., to the left in Figure 3), such as by pure brute force, while winding 24 in housing 20 remained on the motor shaft.

In other words, the term "removable" merely connotes that the brake elements be capable of being removed without requiring removal of the winding. Therefore, as long as the removable capability exists in some way, shape, or form, the claim limitation is met. It is along this line of reasoning that the examiner is maintaining her rejection.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 571-272-7122. The examiner can normally be reached on Mondays 5:30 AM - 4 PM and Tuesdays 8 AM - 2 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rob Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pam Rodriguez
Primary Examiner
Art Unit 3657

/Pam Rodriguez/
Primary Examiner, Art Unit 3657
01/06/09

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